

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

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(b) To be eligible, a facility must submit its plan for the wage and benefit distribution by December 31, 2002. If a facility's plan for wage and benefit distribution is effective for its employees after July 1, 2002, the portion of the rate adjustments are effective the same date as its plan.

(3) A hospital-attached facility may include costs in its distribution plan for wages and benefits and associated costs of employees in that organization's shared services departments, provided that the facility and the hospital share common ownership and adjustments for hospital services using the diagnostic-related grouping payment rates per admission under Medicare are less than three percent during the 12 months before July 1, 2002. If a hospital-attached facility meets these qualifications, the difference between the rate adjustments approved for nursing facility services and the rate increase approved for hospital services may be permitted as a distribution in the hospital-attached facility's plan regardless of whether the use of the funds is shown as being attributable to employee hours worked in the facility or employee hours worked in the hospital.

D. Notwithstanding Sections 1.020 and 17.020, upon the request of a facility, the Department may authorize the facility to raise per diem rates for private-pay residents on July 1 by the amount anticipated to be required upon implementation of the rate adjustments allowable under item A, Section 21.067, items B and C, and item B of this Section. Until the rate is finalized, the Department will require any amounts collected, which must be used as provided in this item, to be placed in an escrow account established for this purpose with a financial institution that provides deposit insurance. The Department shall conduct audits as necessary to ensure that:

(1) the amounts collected are retained in escrow until rates are increased to reflect the wage-related adjustment; and

(2) any amounts collected from private-pay residents in excess of the final rate are repaid to the private-pay residents with interest.

SECTION 21.070 Contract payment rates; appeals. If a provider appeal is pending concerning the cost-based payment rates that are the basis for the calculation of the payment rate under the contractual alternative payment methodology, the Department and the nursing facility may agree on an interim contract rate to be used until the appeal is resolved. When the appeal is resolved, the contract rate must be adjusted retroactively in accordance with the appeal decision.

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SECTION 21.080 **Exemptions.** To the extent permitted by federal law:

A. Nursing facilities that are Medicare certified and filing a Medicare cost report and have entered into a contract under this section are not required to file a cost report as described in Section 2.000 for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment contract. Nursing facilities that are not Medicare certified and are not filing a Medicare cost report must file a cost report as described in Section 2.000.

B. A facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract, and all subsequent rate years affected by changes to that first rate year payment rate.

C. A facility that is under contract with the state under this section is not subject to the state's moratorium law on licensure or certification of new nursing home beds, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph.

D. As a condition of entering into a contract under Section 21.000, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under the State plan or to construction undertaken under this section that otherwise would not be authorized under the moratorium exception process.

E. Nothing in this section prevents a nursing facility participating in the contractual alternative payment rate methodology described in this section from seeking approval of an exception to the state's nursing home moratorium law through the process established in that law. The projected costs of the moratorium exception project are not required to exceed the cost threshold, which is \$1,000,000 for projects approved after July 1, 2001.

(1) If a moratorium exception application is approved, the nursing facility's payment rate for property shall be adjusted to reflect the cost of the approved project.

(2) If a nursing facility from receives legislative approval of an exception to the moratorium, the facility's rate must be adjusted to reflect the cost of the project.

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F. Notwithstanding the state's law governing the level of nursing home Medicare certification, and pursuant to any terms and conditions contained in the facility's contract, a nursing facility contracting with the state under this section is in compliance with state laws if the nursing facility is Medicare certified.

G. A nursing facility under contract is allowed to change therapy arrangements from an unrelated vendor (i.e., a therapist not working for the nursing facility) to a related vendor during the term of the contract.

SECTION 21.090 Consumer protection.

A. As a condition of entering into a contract under this section, a nursing facility must agree to establish resident grievance procedures that are similar to those required under state law.

B. The nursing facility may also be required to establish expedited grievance procedures to resolve complaints made by short-stay residents.

C. The facility must notify its resident council of its intent to enter into a contract and must consult with the council regarding any changes in operation expected as a result of the contract.

SECTION 21.100 Contracts are voluntary.

A. Election by a nursing facility of the contractual alternative payment rate is voluntary.

B. The terms and procedures governing the alternative payment rates are determined under Section 21.000 and through negotiations between the Department and nursing facilities that have submitted a letter of intent to elect the alternative payment rate.

C. For purposes of developing requests for proposals and contract requirements, and negotiating the terms, conditions, and requirements of contracts, the Department is exempt from state rulemaking requirements.

SECTION 21.110 Federal requirements. The Department will implement the contractual alternative payment methodology subject to any required federal approvals, and in a manner that is consistent with federal requirements. If a provision of this section is inconsistent with a

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federal requirement, the federal requirement supersedes the inconsistent provision. The Department will seek federal approval and request waivers as necessary to implement this section.

SECTION 21.120 Salary adjustments. Effective July 1, 1998, and ending June 30, 2001 if the performance-based contracting payment system is not implemented until July 1, 2001, the Department will make available the appropriate salary adjustment per diem calculated in Section 11.070 to the total operating cost payment rate of each nursing facility subject to payment under this section.

SECTION 21.130 Separate billings for therapy services. Nursing facilities must limit charges in total to vendors of therapy services for renting space, equipment, or obtaining other services during the rate year to the inflated amount from the facility's base year cost report. Nursing facilities that are located in a county participating in the state's §1115 prepaid medical assistance waiver program are exempt from this maximum therapy rent revenue requirement.

SECTION 21.140 Payment for preadmission screening fees. The estimated annual cost of screenings for each nursing facility are included as an allowable operating cost for reimbursement purposes. The estimated annual costs are divided by the facility's actual resident days for the cost report period. The resulting per diem amount is included in the calculation of the total payment rate.